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SIPDIS

DEPT FOR NEA/FO, NEA/ELA

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TAGS: PREL PGOV PTER PINR UNSC MARR MOPS LE SY

SUBJECT: LEBANON: BODY THAT DECIDES ELECTORAL DISPUTES OFF
TO A ROCKY START

REF: A. 08 BEIRUT 01520

1B. BEIRUT 00222

SUMMARY AND
BACKGROUND

11. (SBU) After a contentious battle in parliament to nominate five members to the ten-member Constitutional Court, cabinet ministers -- expecting a similar battle -- have thus far avoided discussions to name the Court's remaining five members. As the June 7 election draws closer, the absence of a Constitutional Court, whose mandate includes settling election disputes, raises questions as to how the GOL will resolve disputes from the 2009 parliamentary elections. Political manipulation of the appointments of members to the court likely will make the final body less independent than was envisioned when it was created.

12. (SBU) The Constitution Court is a vital part of upcoming 2009 parliamentary elections, as it provides the only legal recourse to question electoral results (ref A). Neck-in-neck in the polls three months before election day, March 14 and the March 8/Aoun opposition both expect victory on election day. Such a close race, with several districts too difficult to predict, sets up a scenario in which both sides could question official results, making the existence of the Constitutional Court handle post-election claim even more important. End summary.

MARCH 8 BRISTLES OVER
PARLIAMENT APPOINTEES

13. (SBU) Despite efforts to avoid politicizing the Constitutional Court -- the mandate of which includes settling disputes arising from parliamentary elections -- the contentious process in December 2008 to decide the first five members set the court on unsteady footing. MP Bahije Tabarah, a prominent constitutional expert, noted that before the official parliamentary session to name five of the court members, a smaller bureau in parliament met with both March 14 and opposition representatives and agreed on five names. (Note: Parliament and cabinet each select five members for the Constitutional Court. End note.) Tabarah, who was out of the country for the vote, told PolEconoff that he had left the country thinking the appointments were a "done deal."

¶4. (SBU) During the parliament session, however, March 14 -- instigated by Druze leader Walid Jumblatt -- reneged on the previous agreement and insisted on the selection of Antoine Kheir, instead of former head of the Beirut Bar Association Raymond Eid, as the Maronite representative to the court. Jumblatt supported Kheir because of the latter's dedication to the establishment of the Special Tribunal for Lebanon. The opposition, infuriated by the coalition's reversal, held back votes on all three Christian candidates, Antoine Kheir (Maronite), Antoine Messarra (Catholic), and Zaghloul Attieh (Greek Orthodox). However, each were elected with around 60 votes, due to March 14's majority in Parliament. The Muslim candidates, Tareq Ziade (Sunni) and Ahmed Taqieddine (Shia) -- part of the previously-negotiated arrangement -- each earned more than 100 votes from both March 14 and opposition MPs.

EXPECTING CONCESSION
IN CABINET

¶5. (SBU) Because of the dispute in parliament voting, the opposition gained only one of "their" representatives on the court -- Ahmed Taqieddine -- while March 14 got four of the candidates it favored. Feeling wronged, the opposition is demanding concessions in cabinet discussions to name the remaining five members to the Court. In fact, the opposition's "blocking third" minority in cabinet probably will enable it to insist on a compromise arrangement, or at least force an extended delay.

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¶6. (SBU) Tabarah, allied with the March 14 majority, assessed that the opposition is calculating how to block the Court's vote, in a set-up akin to the opposition's "blocking third" in cabinet. The support of seven of the ten court members is required to change an election result, so March 8 would need four judges to block a decision by the court. This configuration would make the Court, without support from both sides, unable to pass decisions on disputes arising from elections.

EXISTING DISPUTES
ANOTHER ROADBLOCK

¶7. (SBU) Current tensions between March 14 Prime Minister Fouad Siniora and March 8 Speaker of Parliament Nabih Berri over funding for Berri's Council for the South likely will sour the atmosphere further for compromise on the remaining Court appointees. Chairman of the Administration and Justice committee MP Robert Ghanem told PolEconOff that even if President Sleiman stepped in to solve the dispute between Berri and Siniora, resentment from the situation would remain. Ghanem expected a turbulent road to compromise on cabinet's naming of the remaining five Constitutional Court members.

COMMENT

¶8. (SBU) With the June 7 election three months away, many observers are alarmed by the absence of a functional Constitutional Court. Both sides, expecting painful negotiations, appear willing to avoid the task for the time being. The cabinet has not even put naming the remaining members to the court on the agenda for its weekly meeting for some weeks. However, delays in forming this vital electoral body could lead to two scenarios: failure to elect the minimum seven members to the court, or the establishment of a politically-charged ten person body with an opposition blocking minority.

¶9. (SBU) Either scenario above -- naming of a court a

blocking minority for the opposition or failure to name a court -- opens many negative possibilities in the aftermath of elections. Without a court to rule on election disputes, candidates most likely would continue to maintain their claims of victory, as is the case with Michel Aoun's 11 outstanding claims regarding 2005 election results.

¶110. (SBU) Competing claims of victory in different districts would put March 14 and the opposition at loggerheads before the formation of a new cabinet, and would likely weigh on each side's stance regarding the selection of cabinet ministers. Additionally, without the option of any official recourse or oversight, disputing parties could feel inclined to settle complaints outside the system. Bottle-necking the political system, or resorting to violence, could become more feasible ways of expressing dissatisfaction with electoral results.

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